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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/747,774

12/29/2003

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EXAMINER

BOUCHELLE, LAURA A

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

05/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|--|--|
| Office Action Summary | Application No. 10/747,774 | Applicant(s) FUIMAONO, KRISTINE B. | |
| | Examiner LAURA A. BOUCHELLE | Art Unit 3763 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/13/08 has been entered.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 2, 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tu et al (US 5971968) in view of Swanson et al (US 6428537). Tu discloses a catheter probe for treating atrial fibrillation comprising the a rigid probe 1 having an ablation electrode 11 at the distal end, the electrode having an opening 74 that allows irrigation fluid to flow through an infusion tube 54 and out of the electrode (Col. 3, lines 56-60, Col. 10, lines 23-27). The probe is torsionally rigid (Col. 5, lines 8-15). Tu further discloses that the device comprises a hollow handle 6. Tu discloses that the probe has a temperature sensing means (Col. 4, lines 38-39). The tip electrode may be porous (Col. 6, lines 66-67).

4. Claims 1 differ from Tu in calling for the probe body to be rigid to resist bending. Swanson teaches a device for delivering electrical energy to the heart. Swanson teaches that it is known to use catheter-based devices with surgical probes that are not catheter-based as probes allow the physician to directly apply the electrode to the tissue (Col. 24, lines 20-25). Therefore,

Art Unit: 3763

it would have been obvious to one of ordinary skill in the art at the time of invention to use the catheter-based device of Tu with a probe as taught by Swanson so that the physician can directly apply the electrodes to the patient.

5. Claims 3, 7, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tu in view of Swanson in view of Alt (US 5411527). Claims 3, 17 differ from Tu in calling for the probe body to be generally rigid to resist bending. Swanson teaches this feature as discussed above.

6. Claims 3, 7, 17 further differ from Tu in calling for the probe to include a stiffening wire. Alt teaches a device for treating atrial fibrillation comprising a probe having a stiffening wire 30 that straightens and stiffens the tube sufficiently to be passed through a puncture in the chest wall (Col. 15, lines 37-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Tu to include a stiffening wire in the probe as taught by Alt so that the probe is straight and stiff enough to be inserted through a puncture in the chest wall.

7. Claims 4-6, 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tu in view of Swanson in view of Alt as applied to claims 3 and 7 above, and further in view of Sterman et al (US 5682906). Claims 4-6, 14-16 differ from the teachings above in calling for the probe to be of a certain length. Sterman teaches a method for performing intracardiac procedures using a probe that is about 20 cm (7.87 inches) because that is the length allows the probe to reach the heart so that a procedure can be performed and is not so long that the physician has difficulty controlling it (Col. 24, lines 15-20). Therefore, it would have been obvious to one of

Art Unit: 3763

ordinary skill in the art at the time of invention to modify the device of Tu in view of Alt to be about 20 cm long as taught by Sterman so that the probe is of an appropriate length to treat the heart.

8. Claims 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tu in view of Swanson in view of Alt as applied to claim 3 above, and further in view of Lucas et al (US 5795332). Claim 8 differs from the teachings above in calling for the stiffening wire to be stainless steel. Claim 9 differs in calling for the wire to be a malleable material. Lucas teaches a catheter having a stiffening wire made of stainless steel (a malleable metal) to provide the desired rigidity to the catheter (Col. 6, lines 44-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Tu in view of Alt to have the stiffening wire made of stainless steel because it is well known in the art that stainless steel can be used to form stiffening wires.

Response to Arguments

9. Applicant's arguments with respect to claims 1, 2, 10-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA A. BOUCHELLE whose telephone number is (571)272-2125. The examiner can normally be reached on Monday-Friday 8-4.

Art Unit: 3763

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Laura A Bouchelle
Examiner
Art Unit 3763

/L. A. B./
Examiner, Art Unit 3763